

where R is formyl, tetrazole, nitrile, a COOH group or a radical which can be hydrolyzed to COOH, and the other substituents have the following meanings:

R² hydrogen, hydroxyl, NH₂, NH(C₁-C₄-alkyl), N(C₁-C₄-alkyl)₂, halogen, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy or C₁-C₄-alkylthio;

X ~~nitrogen or CR¹⁴ where R¹⁴ is hydrogen or [C₁₋₅-alkyl] C₁-C₅-alkyl, or CR¹⁴ forms together with CR³ a 5- or 6-membered alkylene or alkenylene ring which can be substituted by one or two [C₁₋₄-alkyl] C₁-C₄-alkyl groups and in which in each case a methylene group can be replaced by oxygen, sulfur, NH or [NC₁₋₄-alkyl] N(C₁-C₄-alkyl);~~

R³ hydrogen, hydroxyl, NH₂, NH(C₁-C₄-alkyl), N(C₁-C₄-alkyl)₂, halogen, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy, [NH-O-C₁₋₄-alkyl] NH-O-C₁-C₄-alkyl, C₁-C₄-alkylthio or CR³ is linked to CR¹⁴ as indicated above to give a 5- or 6-membered ring;

R⁴ and R⁵ [()_n which can be identical or different[]_n are phenyl or naphthyl, which can be substituted by one or more of the following radicals: halogen, nitro, cyano, hydroxyl, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy, phenoxy, C₁-C₄-alkylthio, amino, C₁-C₄-alkylamino or C₁-C₄-dialkylamino; or

phenyl or naphthyl, which are connected together in the ortho position via a direct linkage, a methylene, ethylene or ethenylene group, an oxygen or sulfur atom or an SO₂, NH or N-alkyl group; or

C₃-C₇-cycloalkyl;

R⁶ hydrogen, C₁-C₈-alkyl, C₃-C₆-alkenyl, C₃-C₆-alkynyl or C₃-C₈-cycloalkyl, where each of these radicals can be substituted one or more times by: halogen, nitro, cyano, C₁-C₄-alkoxy, C₃-C₆-alkenyloxy, C₃-C₆-alkynyloxy, C₁-C₄-alkylthio, C₁-C₄-haloalkoxy, C₁-C₄-alkylcarbonyl, C₁-C₄-alkoxycarbonyl, C₃-C₈-alkylcarbonylalkyl, C₁-C₄-alkylamino, di-C₁-C₄-alkylamino, phenyl or [phenyl or] phenoxy which is substituted one or more times [, eg. one to three times,] by halogen, nitro, cyano, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy or C₁-C₄-alkylthio;

phenyl or naphthyl, each of which can be substituted by one or more of the following radicals: halogen, nitro, cyano,

B' hydroxyl, amino, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy, phenoxy, C₁-C₄-alkylthio, C₁-C₄-alkylamino, C₁-C₄-dialkylamino or dioxomethylene or dioxoethylene;

a five or six-membered heteroaromatic moiety containing one to three nitrogen atoms and/or one sulfur or oxygen atom, which can carry one to four halogen atoms and/or one or two of the following radicals: C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy, C₁-C₄-alkylthio, phenyl, phenoxy or phenylcarbonyl, it being possible for the phenyl radicals in turn to carry one to five halogen atoms and/or one to three of the following radicals: C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy and/or C₁-C₄-alkylthio;

[with the proviso that R⁶ can be hydrogen only when Z is not a single bond;]

Y sulfur or oxygen or a single bond;

Z sulfur, oxygen, -SO- [,] or -SO₂-.

[2. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein X is CR¹⁴ and R¹⁴ is hydrogen or C₁-C₅-alkyl.

3. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim 1, wherein X is CR¹⁴ and R¹⁴ is hydrogen.

4. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein R is CO₂H.

5. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein R² and R³ each is methoxy.

6. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein R⁴ and R⁵ each is phenyl.

7. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein R⁶ is C₁-C₈-alkyl.

8. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein Y is oxygen.

9. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein Z is oxygen or sulfur.

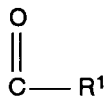
10. (amended) The [~~carboxylic acid derivative~~] compound of the formula I as defined in claim ~~1~~, wherein Z is oxygen.

¹⁰
N. (amended) The [carboxylic acid derivative] compound of the formula I as defined in claim 1, wherein

- B¹
- X is CH,
 - Y is oxygen,
 - Z is oxygen,
 - R is CO₂H,
 - R² is methoxy,
 - R³ is methoxy,
 - R⁴ is phenyl,
 - R⁵ is phenyl,
 - R⁶ is methyl, ethyl or iso-propyl.

[Add new Claim 12 as follows:

B²
T480X
12. The compound of the formula I as defined in claim 1, wherein R is tetrazole, nitrile or a group



where R¹ has the following meanings:

- T481X
- a) hydrogen;
 - b) succinylimidoxy;
 - c) a five-membered heteroaromatic ring linked by a nitrogen atom, selected from the group consisting of: pyrrolyl, pyrazolyl, imidazolyl and triazolyl, which ring can carry one or two halogen atoms and or one or two of the following radicals: C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy or C₁-C₄-alkylthio;
 - d) a radical $\begin{array}{c} \text{R}^7 \\ | \\ \text{---}(\text{O})_m\text{---N} \\ | \\ \text{R}^8 \end{array}$, where m is 0 or 1 and R⁷ and R⁸, which can be identical or different, have the following meanings:
 - hydrogen,
 - C₁-C₈-alkyl, C₃-C₆-alkenyl, C₃-C₆-alkynyl, C₃-C₈-cycloalkyl, where these alkyl, cycloalkyl, alkenyl and alkynyl groups can each carry one to five halogen atoms and/or one or two

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of the following groups: C₁-C₄-alkyl, C₁-C₄-alkoxy, C₁-C₄-alkylthio, C₁-C₄-haloalkoxy, C₃-C₆-alkenyloxy, C₃-C₆-alkenylthio, C₃-C₆-alkynyloxy or C₃-C₆-alkynylthio,

- C₁-C₄-alkylcarbonyl, C₁-C₄-alkoxycarbonyl, C₃-C₆-alkenylcarbonyl, C₃-C₆-alkynylcarbonyl, C₃-C₆-alkenyloxycarbonyl or C₃-C₆-alkynyloxycarbonyl,
- phenyl, which can be substituted one or more times by halogen, nitro, cyano, C₃-C₆-alkenylcarbonyl, C₃-C₆-alkynylcarbonyl, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy or C₁-C₄-alkylthio,
- di-C₁-C₄-alkylamino, or

R⁷ and R⁸ together form a C₄-C₇-alkylene chain which can be substituted by C₁-C₄-alkyl, and may contain a hetero atom selected from the group consisting of oxygen, sulfur and nitrogen, or R⁷ and R⁸ together form a CH₂-CH=CH-CH₂ or CH=CH-(CH₂)₃ chain;

T490X
e) a radical $\text{---O---(CH}_2\text{)}_p\text{---}\overset{\text{(O)}_k}{\parallel}\text{S---R}^9$, where k is 0, 1 and 2, p is 1, 2, 3 and 4, and R⁹ is C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₃-C₆-alkenyl, C₃-C₆-alkynyl or phenyl, which can be substituted one or more times by halogen, nitro, cyano, C₃-C₆-alkenylcarbonyl, C₃-C₆-alkynylcarbonyl, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy or C₁-C₄-alkylthio;

f) a radical OR¹⁰, where R¹⁰ is

- hydrogen, the cation of an alkali metal or an alkaline earth metal or an environmentally compatible organic ammonium ion;
- C₃-C₈-cycloalkyl which may carry one to three C₁-C₄-alkyl groups;
- C₁-C₈-alkyl which may carry one to five halogen atoms and/or one of the following radicals: C₁-C₄-alkoxy, C₁-C₄-alkylthio, cyano, C₁-C₄-alkylcarbonyl, C₃-C₈-cycloalkyl, C₁-C₄-alkoxycarbonyl, phenyl, phenoxy or phenylcarbonyl, where the aromatic radicals in turn may carry one to five halogen atoms and/or one to three of the following radicals: nitro, cyano, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy and/or C₁-C₄-alkylthio;
- C₁-C₈-alkyl which may carry one to five halogen atoms and which carries one of the following radicals: a 5-membered

B²

heteroaromatic ring containing one to three nitrogen atoms or a nitrogen atom and an oxygen or sulfur atom, which may carry one to four halogen atoms and/or one or two of the following radicals: nitro, cyano, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, phenyl, C₁-C₄-haloalkoxy and/or C₁-C₄-alkylthio;

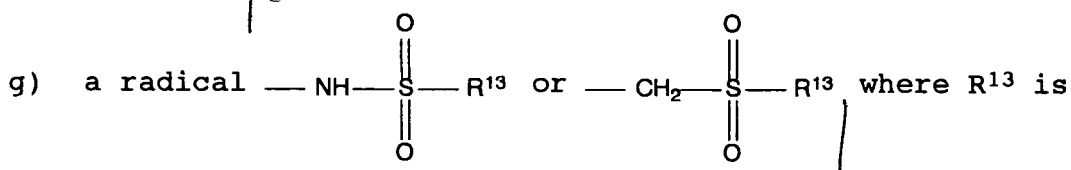
- C₂-C₆-alkyl which carries one of the following radicals in position 2: C₁-C₄-alkoxyimino, C₃-C₆-alkynyloxyimino, C₃-C₆-haloalkenyloxyimino or benzyloxyimino;
- C₃-C₆-alkenyl or C₃-C₆-alkynyl which may carry one to five halogen atoms;
- phenyl which may carry one to five halogen atoms and/or one to three of the following radicals: nitro, cyano, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy and/or C₁-C₄-alkylthio;
- a 5-membered heteroaromatic ring which is bonded via a nitrogen atom and containing one to three nitrogen atoms, which may carry one or two halogen atoms and or one or two of the following radicals: C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, phenyl, C₁-C₄-haloalkoxy and/or C₁-C₄-alkylthio;

- T300X
- a radical $\text{—N}=\text{C} \begin{array}{l} \text{R}^{11} \\ \text{R}^{12} \end{array}$ where R¹¹ and R¹², which may be identical or different are:

C₁-C₈-alkyl, C₃-C₆-alkenyl, C₃-C₆-alkynyl, C₃-C₈-cycloalkyl, it being possible for these radicals to carry a C₁-C₄-alkoxy, C₁-C₄-alkylthio and/or phenyl which may carry one to five halogen atoms and/or one to three of the following radicals: nitro, cyano, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy and/or C₁-C₄-alkylthio;

phenyl which may carry one or more of the following radicals: halogen, nitro, cyano, C₁-C₄-alkyl, C₁-C₄-haloalkyl, C₁-C₄-alkoxy, C₁-C₄-haloalkoxy or C₁-C₄-alkylthio;

or R¹¹ and R¹² together form a C₃-C₁₂-alkylene chain which may carry one to three C₁-C₄-alkyl groups and which may contain a hetero atom selected from the group consisting of nitrogen, oxygen and sulfur;



- $\text{C}_1\text{—C}_4\text{—alkyl}$, $\text{C}_3\text{—C}_6\text{—alkenyl}$, $\text{C}_3\text{—C}_6\text{—alkynyl}$, $\text{C}_3\text{—C}_8\text{—cycloalkyl}$, it being possible for these radicals to carry a $\text{C}_1\text{—C}_4\text{—alkoxy}$, $\text{C}_1\text{—C}_4\text{—alkylthio}$ and/or a phenyl radical, or
- phenyl which may carry one or more of the following radicals: halogen, nitro, cyano, $\text{C}_1\text{—C}_4\text{—alkyl}$, $\text{C}_1\text{—C}_4\text{—haloalkyl}$, $\text{C}_1\text{—C}_4\text{—alkoxy}$, $\text{C}_1\text{—C}_4\text{—haloalkoxy}$ or $\text{C}_1\text{—C}_4\text{—alkylthio}$.

R E M A R K S

Claims 1 to 12 are active in this case. Claims 1 to 11 have been amended to better comply with U.S. formal requirements. Claim 12 has been added to bring out some of the subsidiary features of Applicants' compounds (I). Basis for the subject matter of Claim 12 is found on page 8, indicated line 7, to page 14, indicated line 30, of the specification. No new matter has been added.

The Examiner has repeated the election/restriction requirement and made it final, finding that Applicants' compounds represented by formula (I) lack the same or corresponding special technical features because the compounds of formula (I) do not possess a single structural element that is shared by all of the alternatives. It is respectfully submitted that this statement is inconsistent in itself. Furthermore, the statement is not well founded in light of PCT Rule 13 and Annex B, Part 1, of the PCT Administrative Instructions.

The statement is inconsistent in itself because, on the one hand it relates to the "corresponding special technical features" referred to in PCT Rule 13.2, and on the other it relates to "a single structural element that is shared by all of the alternatives". The latter is obviously based on the explanations regarding the Markush practice given in Annex B, Part 1, of the PCT Administrative Instructions, Section (f) (see eg. Section (f)(i)(B1), page AI-39, col. 2, of the MPEP). However, Section (f)(i)(B1) of Annex B, Part 1, of the PCT Administrative Instructions neither stands alone as a requirement nor does

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